

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: Lisa Goldman
Acting City Manager

Date: February 15, 2011

Re: Adopt the Legislative Program for 2011

BACKGROUND

Many cities and counties adopt a legislative program annually to guide the agency's legislative advocacy efforts during the year. Adoption of such a program enables both the City Council and staff to react quickly to most legislative issues as they arise and ensures that there is a formal City position on a variety of legislative matters.

DISCUSSION

The City Council last adopted a legislative program in January 2010. That program, which was shared with the City's state and federal representatives, guided City Council and staff advocacy efforts during the year. The issues included in this year's program are primarily those that the League of California Cities is tracking, but they also include other matters that have arisen in the Legislature and Congress in the recent past and can be expected to resurface in the future. Issues that develop mid-year that are not covered by the legislative program will be brought back for City Council consideration as needed.

In order to provide staff with the flexibility to respond quickly to legislative alerts from the League of California Cities, the California Redevelopment Association, and other local government advocates, the recommended legislative program contains an overarching statement of support for local control as well as positions on broad government-related issues.

Legislative Program:

General Principle

The City of Alameda opposes any legislation or regulations that preempt local authority, negatively affect the City's budget, or impose unfunded mandates on the City. The City supports the use of incentives to encourage local government action, rather than the imposition of mandates.

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Revenue and Taxation

Fiscal Reform/Redevelopment: Since 1992, the State has drained more than \$40 billion of local property taxes from cities, counties, and special districts. According to the League of California Cities, the State took approximately \$64.6 million from the City of Alameda and the Community Improvement Commission (CIC) between 1991 and the end of FY09-10. Even in years of budget surpluses, the State has used local monies to finance its constitutional funding obligation to public education, allowing it to increase State general fund spending for other programs at the expense of vital local services.

The passage of Proposition 1A on the November 2004 ballot and Proposition 22 on the November 2010 ballot guaranteed the City some measures of protection against future State raids. Under the terms of Proposition 1A, however, the State can declare a fiscal emergency and take local revenues, twice within a ten-year period and providing prior loans have been repaid. Under Proposition 22, the State is no longer allowed to take revenue derived from locally imposed taxes, such as hotel taxes, parcel taxes, utility taxes, and sales taxes, as well as local public transit and transportation funds, including funds from the Proposition 42 gas tax and Highway User Tax Act gas tax.

In passing its FY09-10 budget, the State declared a fiscal emergency and took \$1.9 billion in local government property taxes, including more than \$6 million from the City of Alameda and the CIC. Because the City is participating in a State-financed securitization program through an organization called California Communities in which the funds are taken by the State and restored by California Communities the same day, the City is not actually losing any funds. However, the CIC lost approximately \$4.4 million in redevelopment funds last year and will lose an additional \$900,000 to \$1 million this year as part of the State's \$2.05 billion takeaway of redevelopment funds.

Moreover, on January 10, 2011, Governor Brown issued his FY11-12 budget proposal, which includes the dissolution of redevelopment agencies statewide and the requirement that all future tax increment be used only to satisfy the agencies' existing obligations. This proposal will destroy local economic development efforts. The elimination of redevelopment would take away one of the few tools local governments have to comply with state requirements to plan for more compact urban development supported by transit-oriented development housing, jobs and infrastructure.

The CIC has numerous projects in various stages of development that assist in the elimination of blight and serve as catalysts for private investment in the redevelopment areas. It will be difficult to continue planning and implementing these redevelopment and economic development projects without the resources from redevelopment.

Additionally, redevelopment agencies are the second largest funder of affordable housing behind the federal government. Affordable housing is a critical, unmet need throughout the Bay Area, and the City of Alameda is no exception. Funding the preservation and expansion of affordable housing for very low-, low-, and moderate-income households is key to a vibrant and sustainable local economy.

Despite the State's past local government takeaways, it continues to face massive deficits. In November, the Legislative Analyst's Office estimated that the State now faces a \$25.4 billion gap between revenues and expenditures over the next 18 months. That figure includes \$6 billion this fiscal year and an additional \$19 billion in FY11-12.

Many of the one-time solutions the Governor and Legislature used in past years to balance the budget, such as accelerating the collection of payroll taxes and postponing the last payday for state workers in the current fiscal year until the first day of the next fiscal year, are no longer available. In addition, the State is facing reduced federal funding as a result of the winding down of the federal stimulus package.

With the State's continuing structural budget deficit, it will again be critical that the City oppose efforts by the State to balance its budget on the backs of local governments through the proposed elimination of redevelopment agencies, as well as proposed reduced funding for other local programs.

Lower threshold for local special taxes: Local governments cannot easily raise revenues. Taxes to fund specific, important services, such as park and street maintenance, public safety, and library hours must be approved by a two-thirds majority of the voters. This high vote requirement makes it extremely difficult for many cities to raise needed monies. The City therefore supports a constitutional amendment to lower the threshold for approval of local taxes to either 55% (the same requirement schools now face) or to a simple majority.

E-commerce: Sales of goods and products over the Internet pose a serious threat to the City's overall sales tax revenue base. At a minimum, the Legislature should enact legislation to close the loophole in current law that allows corporations with a physical presence, or nexus, in California to evade their sales and use tax obligations by setting up related web-based businesses based outside California.

Business development: The City depends on the success of local businesses to create jobs, generate tax revenue, and provide goods and services for its residents, which results in the strengthening of the local economy and enhancement of the City's overall quality of life. As a result, the City supports legislation that promotes the attraction, retention, and expansion of local businesses, creates new and improved market opportunities for business, and facilitates the efficient movement and sale of goods and services.

Community Development Block Grant (CDBG) funds: The City opposes any cuts to the CDBG funds from the Federal Department of Housing and Urban Development (HUD). Each year, the City receives an entitlement allocation of approximately \$1.3 million of CDBG funding, which is used to finance programs and activities that benefit low- and moderate-income persons and households, and help prevent or eliminate slums and blight. Any cuts to CDBG funding would adversely affect the City's and nonprofits' ability to provide essential services to needy Alamedans.

Homeland Security and Public Safety

Reimbursement: Since the events of September 11, cities have had to assume additional staffing and equipment costs for emergency preparedness and public safety. Although local governments are usually the first to respond in cases of natural disasters and acts of terrorism, they receive little financial and technical assistance from the State and federal governments. The City supports legislation to provide resources for emergency planning, training, exercises, and equipment for emergency workers.

COPS funding: The City supports funding for the Citizens' Option for Public Safety (COPS) program, which provides monies on a population basis to local law enforcement agencies to provide enhanced public safety services. Funds can be used for salaries and benefits, or for technology, training, and other frontline law enforcement purposes. The City uses COPS money for technology and training purposes not already budgeted in the General Fund.

Interoperability: The City is a member of the East Bay Regional Communications System Authority, a Joint Powers Authority established to build and operate a coordinated public safety communications system in Alameda and Contra Costa Counties. The City supports legislation to provide funding for such systems to ensure that public safety agencies can communicate with each other during an emergency.

Spay/Neuter laws: The City supports legislation to encourage spaying and neutering of domestic cats and dogs in order to reduce overpopulation in animal shelters.

Transportation and Infrastructure

Lower threshold for approval of transportation sales taxes: The City supports a constitutional amendment to lower the threshold for approval of sales and use taxes for transportation purposes. Currently, such taxes must be approved by two-thirds of the voters. The City supports lowering the requirement to either 55% (the same requirement schools now face) or to a simple majority in order to provide much-needed funding for transit and transportation infrastructure.

Fuel tax increase: The voters last increased the State fuel tax in June 1990 when Proposition 111 passed. This measure doubled the State fuel tax to 18 cents a gallon. Since then, California's fuel tax rate has lost much of its buying power. The City supports fuel tax indexing or an increase to ensure funding for local street projects and maintenance.

Base Reuse

Preservation of local interests: The City supports legislation and policies that preserve Alameda's interests related to base reuse, clean-up, and conveyance.

Land Use

Preservation of local land use authority: The City opposes legislation that would remove or limit local government land use authority.

Housing elements: The City opposes legislation that penalizes local governments for noncompliance with their housing element requirements. Proposed penalties have included loss of gas tax funds and court-ordered penalties for noncompliance.

Employee Relations

Mandated employee and retiree benefits: Decisions about health and retirement benefits should be made at the local level, through the collective bargaining process, not mandated by the State. Therefore, the City opposes legislation mandating new or enhanced local employee and retiree benefits because such benefits can impose financial costs and administrative burdens on local governments.

4850 benefits: Under current law (Labor Code Section 4850), public safety employees who are totally temporarily disabled by injury or illness on the job are entitled to a leave of absence at full salary, tax free, for up to one year. The City opposes legislation to extend that timeframe.

Workers' compensation: The City opposes any new or additional workers' compensation benefits and supports legislation to further reform the system and lower employer costs.

Second tier Public Employees' Retirement System (PERS) benefits: Existing law allows a local contracting agency to amend its contract with CalPERS in order to create a second tier of benefits, subject to certain restrictions. The second tier can only apply to employees who are hired after the contract effective date or who change membership classification after the contract amendment date. Existing law also prohibits local agencies from amending their contracts with CalPERS to reduce employee benefits for existing employees. However, a second tier, which applies to prospective employees only, may provide a lesser or different level of optional benefits than exists for employees in the first tier. The City opposes legislation to eliminate a local contracting agency's ability to reduce or modify benefits for new employees of the agency.

Pension reform: Employer costs for the State's defined benefit retirement system (CalPERS) have increased significantly in recent years. The City supports pension reform, provided that it achieves savings without imposing additional costs.

Retiree medical: As a result of a Governmental Accounting Standards Board (GASB) change, local agencies are now required to account for their liability for retiree medical benefits, also known as Other Post-Employment Benefits (OPEB). Instead of accounting for these benefits on a pay-as-you-go basis, which is what many local governments do now, agencies must report their annual OPEB costs and their unfunded

actuarial liabilities for past service costs. The new GASB regulations are intended to improve transparency in government accounts by making it easier to know what the future liability for OPEB expenses will be for a given government and to assess whether the government has a strategy for meeting these requirements. The California Public Employees Retirement System is offering local agencies a program to pre-fund their OPEB obligations. While the City may choose to participate in such a program in the future, the City opposes any legislation that would make such participation mandatory.

Environment

Energy Efficiency and Conservation Block Grants: The Energy Efficiency and Conservation Block Grant (EECBG) Program, which was authorized by Congress several years ago but funded for the first time in 2009, received \$3.2 billion in American Recovery and Reinvestment Act funding for fiscal year 2009. The majority of this funding, more than \$2.7 billion, was distributed through formula grants; the City of Alameda received \$640,600 from this program. These funds are being used to install solar panels on the Main Library; expand the Webster Street Smart Corridor; design, develop, and launch a third-party energy audit training program; conduct energy efficiency audits of the Alameda Unified School District's facilities; conduct a City facilities energy audit; and install lighting occupancy sensors at City Hall to ensure that lights turn off automatically when a space is vacant.

The City supports ongoing funding for the Energy Efficiency and Conservation Block Grant program, which is enabling California cities to implement energy conservation and greenhouse gas emissions reduction projects and initiatives to meet the State's aggressive emissions reduction goals, create jobs, and foster economic growth in the renewable energy sector.

Recycling: The City supports continuation of existing Source Reduction & Recycling Act (AB 939) waste diversion requirements. The City also supports diversion measurement and reporting improvements that do not adversely impact the assessment of compliance efforts made by local jurisdictions. Local jurisdictions should be considered in compliance with AB 939 goals if they have met the waste diversion goals or if they are making a good faith effort to implement applicable Source Reduction and Recycling Element (SRRE) programs.

Climate protection: The City supports legislation and policies that assist local governments in reducing global warming pollution levels. These efforts may include reducing dependence on fossil fuels, developing alternative energy resources and fuel-efficient technologies, and implementing sustainable practices such as transit-friendly development.

Polystyrene foam: The City of Alameda supports legislation to ban the use of polystyrene foam disposable food service containers. Such containers have already been banned in over 100 cities nationwide, including Alameda, San Francisco, Oakland, Berkeley, Emeryville, and Millbrae.

Local autonomy: The City opposes legislation that preempts local planning decisions regarding solid waste facility siting; preempts local solid waste and AB 939 fee-setting authority; or imposes taxes or fees on local solid waste programs to fund State programs not directly related to solid waste management.

Litter control and abatement: The City supports legislation to address litter control and abatement problems in California, including measures to expand the enforcement authority of the California Highway Patrol to include enforcement measures for any vehicle generating litter on public roads; provide for effective enforcement of anti-litter laws; implement a strong statewide anti-litter outreach campaign; and provide for cleanup of littered areas.

Extended producer responsibility or product stewardship: The City supports legislation such as AB 32 to require manufacturers to assume financial and/or physical responsibility for the costs of collecting, processing, recycling, or disposing of products at end-of-life, especially products that create significant economic burdens on local government for end-of-life management because high volumes of the material exist in the waste stream, or because the nature of the product makes it difficult to manage in the current integrated waste management system; including computer, electronic and other products that incorporate hazardous materials requiring special handling.

In addition, the City supports legislation and education efforts of the California Product Stewardship Council in advocating product stewardship, which means whoever designs, produces, sells, or uses a product takes responsibility for minimizing its environmental impact through all stages of the product's life cycle. And the producer, having the greatest ability to minimize impacts, has the most responsibility. Product stewardship programs have already been implemented in Europe and Canada with many of the same companies now selling products in California.

Recycled product market development: The City supports legislation encouraging manufacturers to include post-consumer recycled material in their products, and encouraging state and local government agencies and school districts to purchase products made with post-consumer recycled material, that reduce waste, and that reduce toxicity of materials that may be discarded or disposed in the future.

Stormwater program funding: The City supports legislation that would make it easier for cities to fund and comply with new and increasingly stringent stormwater quality permit requirements, including adding fees for stormwater management programs to those voter approved exemptions already included in Proposition 218.

Home-generated pharmaceutical waste: Home-generated pharmaceutical and sharps (needle) waste are difficult to dispose of safely and can pose a hazard to waste haulers and recyclers. For that reason, the California Integrated Waste Management Board or its successor agency, Department of Conservation, is sponsoring legislation to require the State Board of Pharmacy to coordinate with other state agencies, local

governments, drug manufacturers, and pharmacies to develop sustainable, efficient policies and programs to manage pharmaceutical wastes and the disposal of sharps. The bill would also authorize a pharmacy to accept the return of home-generated pharmaceutical waste and home-generated sharps waste. The City supports this legislation, which would also make local programs, such as the City of Alameda's, eligible to receive grants to help prevent the improper disposal of these products.

Single use bags: The City supports legislation that would require retail businesses to transition from single use bags to reusable bags. As part of any waste reduction strategy, the City will consider implementing local legislation that would ban plastic bags and charge a fee for paper bags in Alameda.

FINANCIAL IMPACT

Adoption of the Legislative Program for 2011 will have no impact on the City's budget.

RECOMMENDATION

Adopt the Legislative Program for 2011.